

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

INSTRUCTIONS:

DO NOT WRITE IN THIS SPACE	
Case	Date Filed
14-CA-264568	August 13, 2020

File an original of this charge with NLRB Regional Director in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer TEXTRON AVIATION		b. Tel. No. 316-517-6177
		c. Cell No.
d. Address (street, city, state ZIP code) ONE CESSNA BLVD. P.O. BOX 7704 WICHITA, KS 67277-7704	e. Employer Representative TODD ZIMMER - MANAGER	f. Fax No.
		g. e-Mail TZIMMER@TXTAV.COM
		h. Dispute Location (City and State) WICHITA, KS
i. Type of Establishment (factory, nursing home, hotel) AEROSPACE	j. Principal Product or Service AIRCRAFT	k. Number of workers at dispute location 4,692

1. The above-named employer has engaged in and is engaging unfair labor practices within the meaning of section 8(a), subsections (1,5) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

(PLEASE SEE ATTACHMENT.)

3. Full name of party filing charge (if labor organization, give full name, including local name and number)

International Association of Machinists and Aerospace Workers, AFL-CIO

4a. Address (street and number, city, state, and ZIP code)

690 E Lamar Blvd, Suite 580
Arlington, Texas 76011

4b. Tel. No.

(817) 505-0100

4c. Cell No.**4d. Fax No.**

(817) 459-0107

4e. e-Mail**5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)**

International Association of Machinists and Aerospace Workers, AFL-CIO

6. DECLARATION

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

Tel. No.

(817) 505-0100

Cell No.

(682) 401-7835

Fax No.

(817) 459-0107

e-Mail

jlittle@iamaw.org

Address: 690 E. Lamar Blvd., suite 580
Arlington, TX 76011

James R. Little,
Grand Lodge Representative

Print Name and Title

Date: 08/13/2020

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)**PRIVACY ACT STATEMENT**

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

Since on or about July, 2020 and at all times thereafter, the Employer, by its officers, agents, and representatives, has refused to bargain in good faith with the International Association of Machinists and Aerospace Workers, AFL-CIO, a labor organization chosen by a majority of its employees in an appropriate unit, for the purpose of collective bargaining in respect to rates of pay, wages, hours of employment, and other terms and conditions of employment.

Specifically, Implementing a policy that leads to discipline, up to termination for employees without first negotiating with the Union.



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

SUBREGION 17
8600 Farley St Ste 100
Overland Park, KS 66212-4677

Agency Website: www.nlrb.gov
Telephone: (913)967-3000
Fax: (913)967-3010



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August 13, 2020

James R. Little, Grand Lodge Representative
International Association of Machinists and Aerospace Workers, AFL-CIO (IAM)
690 E Lamar Blvd., Suite 580
Arlington, TX 76011-1711

Re: Textron Aviation
 Case 14-CA-264568

Dear Mr. Little:

The charge that you filed in this case on August 13, 2020 has been docketed as case number 14-CA-264568. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Attorney WILLIAM LEMASTER (William.LeMaster@nlrb.gov), whose telephone number is (913)275-6524. If this Board agent is not available, you may contact Supervisory Attorney SUSAN A. WADE-WILHOIT whose telephone number is (913)275-6527.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlrb.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. Because we seek to resolve labor disputes promptly, you should be ready to promptly present your affidavit(s) and other evidence. If you have not yet scheduled a date and time for the Board agent to take your affidavit, please contact the Board agent to schedule the affidavit(s). If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed without investigation.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

Prohibition on Recording Affidavit Interviews: It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such

recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

Correspondence: All documents submitted to the Region regarding your case MUST be filed through the Agency's website, www.nlr.gov. This includes all formal pleadings, briefs, as well as affidavits, documentary evidence, and position statements. The Agency requests all evidence submitted electronically to be in the form it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format).

If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge. If you cannot e-file your documents, you must provide a statement explaining why you do not have access to the means for filing electronically or why filing electronically would impose an undue burden.

In addition, this Region will be issuing case-related correspondence and documents, including complaints, compliance specifications, dismissal letters, deferral letters, and withdrawal letters, electronically to the email address you provide. Please ensure that you receive important case-related correspondence, please ensure that the Board Agent assigned to your case has your preferred email address. These steps will ensure that you receive correspondence faster and at a significantly lower cost to the taxpayer. If there is some reason you are unable to receive correspondence via email, please contact the agent assigned to your case to discuss the circumstances that prevent you from using email.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlr.gov or from an NLRB office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,



WILLIAM B. COWEN
Acting Regional Director

WBC:rmf

Enclosure

cc: (b) (6), (b) (7)(C)



UNITED STATES GOVERNMENT
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August 13, 2020

Todd Zimmer
Textron Aviation Companies
One Cessna Blvd.
PO Box 7704
Wichita, KS 67277

Re: Textron Aviation
Case 14-CA-264568

Dear Mr. Zimmer:

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Attorney WILLIAM LEMASTER (William.LeMaster@nlrb.gov), whose telephone number is (913)275-6524. If this Board agent is not available, you may contact Supervisory Attorney SUSAN A. WADE-WILHOIT whose telephone number is (913)275-6527.

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Presentation of Your Evidence: We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board agent. Sending us your written account of the facts and a statement of your position is not enough to be considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

In addition, either you or your representative must complete the enclosed Commerce Questionnaire to enable us to determine whether the NLRB has jurisdiction over this dispute. If you recently submitted this information in another case, or if you need assistance completing the form, please contact the Board agent.

We will not honor requests to limit our use of position statements or evidence. Specifically, any material you submit may be introduced as evidence at a hearing before an administrative law judge regardless of claims of confidentiality. However, certain evidence produced at a hearing may be protected from public disclosure by demonstrated claims of confidentiality.

Further, the Freedom of Information Act may require that we disclose position statements or evidence in closed cases upon request, unless an exemption applies, such as those protecting confidential financial information or personal privacy interests.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

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We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink, appearing to read 'W.B. Cowen', with a long horizontal flourish extending to the right.

WILLIAM B. COWEN
Acting Regional Director

WBC:rmf
Enclosures



UNITED STATES GOVERNMENT
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August 19, 2020

Ross M. Gardner, Attorney at Law
Jackson Lewis, P.C.
10050 Regency Circle, Suite 400
Omaha, NE 68114-3721

James R. Little, Grand Lodge Representative
International Association of Machinists and
Aerospace Workers, AFL-CIO
690 E Lamar Blvd., Suite 580
Arlington, TX 76011-1711

Re: Textron Aviation
Case 14-CA-264568

Dear Mr. Gardner and Mr. Little:

The Region has reviewed the Charge filed against Textron Aviation (Employer), alleging that it violated the National Labor Relations Act (Act). As explained below, I have determined that further proceedings on the Charge should be deferred in accordance with the Board's policy under *Dubo Manufacturing Corporation*, 142 NLRB 431 (1963).

Deferral Policy: The Board's *Dubo* deferral policy provides that this Agency withhold making a final determination on certain unfair labor practice charges when a grievance has been filed by the Charging Party under the grievance/arbitration provisions of a relevant collective bargaining agreement, and there is a reasonable chance that use of the grievance/arbitration machinery will resolve or set at rest the dispute underlying the charge. This policy is based in part on encouraging stability in labor relations by deferring to the parties' chosen means of dispute resolution, as well as avoiding duplicative litigation in multiple forums. Therefore, if the grievance continues to be processed through the grievance/arbitration machinery, the Regional Office will defer the charge.

Decision to Defer: Based on the Region's investigation of this matter, I am deferring further proceedings on the charge or portion of the charge that alleges within the past six months, the Employer unilaterally implemented policies and procedures related to COVID-19 that affect the terms and conditions of employment of bargaining unit employees in violation of Section 8(a)(1) and (5) of the Act. I am making this determination based on my belief that there is sufficient commonality between the facts and issues underlying the allegations of the charge and the facts and issues underlying the allegations of the grievance that there is a reasonable

chance that the parties' resolution of the grievance through the grievance/arbitration machinery will resolve or set at rest the dispute underlying the charge.

No Right of Appeal: Because the *Dubo* policy is based on the Charging Party's having filed and voluntarily processed a grievance under the parties' contractual dispute resolution process, there is no right to appeal the Region's deferral decision to the Office of the General Counsel.

Further Processing of the Charge: As explained below, while the charge is deferred, the Region will monitor the processing of the grievance and, under certain circumstances, may resume processing the charge.

Charging Party's Conduct During Dubo Deferral: Because *Dubo* deferral is dependent on the Charging Party's processing of a grievance through the grievance/arbitration procedure, the Region will revoke deferral and resume processing of the charge if the grievance is withdrawn by the Charging Party or a third party in control of the grievance/arbitration process, without an intervening settlement or other resolution of the issues on which deferral was based. However, in the event that a Charging Party elects to withdraw a grievance in lieu of *Dubo* deferral, and the Charged Party objects on the ground that deferral would be appropriate under the Board's separate, nonvoluntary deferral policy promulgated pursuant to *Collyer Insulated Wire*, 192 NLRB 837 (1971), and *United Technologies Corp.*, 268 NLRB 557 (1984), the Region will determine whether deferral under *Collyer* is appropriate and, if so, issue a separate notification to the parties addressing their obligations and rights under that deferral policy.

Charged Party's Conduct During Dubo Deferral: If the Charged Party prevents or impedes hearing and resolution of the grievance, raises a timeliness defense, or otherwise refuses to address the merits of the grievance in the grievance/arbitration process, I will revoke deferral and resume processing of the charge.

Inquiries and Requests for Further Processing: Approximately every 90 days, the Regional Office will ask the parties about the status of this dispute to determine if the dispute has been resolved and whether continued deferral is appropriate. However, I will accept and consider at any time requests and supporting evidence submitted by any party to this matter for dismissal of the charge, for continued deferral of the charge or for issuance of a complaint.

Notice to Arbitrator Form: If the grievance is submitted to an arbitrator, please sign and submit to the arbitrator the enclosed "Notice to Arbitrator" form to ensure that the Region receives a copy of an arbitration award when the award is sent to the parties.

Review of Arbitrator's Award: If the grievance is arbitrated, the Charging Party may request that this office review the arbitrator's award. The request must be in writing and addressed to me. The request should discuss whether the arbitration process was fair and regular, whether the unfair labor practice allegations in the charge were considered by the arbitrator, and whether the award is clearly repugnant to the Act. Further guidance on the

nature of this review is provided in *Spielberg Mfg. Co.*, 112 NLRB 1080 (1955), and *Olin Corp.*, 268 NLRB 573 (1984).

Very truly yours,



WILLIAM B. COWEN
Acting Regional Director

WBC:kec
Enclosure

cc: Todd Zimmer
Textron Aviation Companies
One Cessna Blvd.
PO Box 7704
Wichita, KS 67277

(b) (6), (b) (7)(C)

